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4. Bills and Notes (§ 279*)—Checks—Forged Indorsement—Negotiable Instruments Law.—Code 1904, p. 1470, § 65, provides that every person negotiating an instrument by delivery or by a qualified indorsement warrants that the instrument is genuine and in all respects what it purports to be, that he has a good title, and that all prior parties had capacity to contract. Held, that where a check payable to a firm was stolen by a clerk who forged the payee's indorsement, deposited the check in defendant bank, which indorsed to plaintiff bank through which it was forwarded to the payee bank for payment, plaintiff, having been compelled to refund by reason of the forgery, was entitled to recover from defendant on its indorsement.

[Ed. Note.—For other cases, see Bills and Notes, Cent. Dig. §§ 625, 632; Dec. Dig. § 279.* 2 Va.-W. Va. Enc. Dig. 466; 14 Va.-W. Va. Enc. Dig. 163; 15 Va.-W. Va. Enc. Dig. 131.]

Error to Law and Equity Court of City of Richmond.

Action by the Planters' National Bank of Richmond against Main Street Bank, Incorporated. Judgment for plaintiff, and defendant brings error. Affirmed.

O'Flaherty, Fulton & Byrd, of Richmond, for plaintiff in error.

Geo. Bryan and *E. C. Massie*, both of Richmond, for defendant in error.

STANSBURY *v.* CITY OF RICHMOND.

March 12, 1914.

[81 S. E. 26.]

1. Municipal Corporations (§ 733*)—Torts—Failure to Furnish Water—Liability of City.—After a water main had been extended by the city to annexed territory, the board of health in December, 1911, notified plaintiff to connect his premises with it, which he did in January, 1912, and it appeared, after trial that the quantity of water on the second floor of plaintiff's house was not sufficient to flush his closets, and the supply was so diminished by other buildings being connected with the main that after about a month plaintiff had no water at all for his bathroom, which facts plaintiff reported to the authorities and suggested that his premises be connected with a standpipe intended to supply an adjoining district, which was refused on the ground that such diversion would render the supply of the persons in that district inadequate. A few days after July 18, 1912, plaintiff and others signed a petition requesting action by the city to remedy the defect in their water supply, and the authorities immediately directed that the main be connected with another pipe,

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

which was done four days thereafter, and which gave plaintiff sufficient water. Held, that the city was not liable in damages for the insufficiency of plaintiff's water supply when the main was first connected with his property, in view of its subsequent action in making an adequate supply available.

[Ed. Note.—For other cases, see *Municipal Corporations*, Cent. Dig. §§ 1547-1549, 1561; Dec. Dig. § 733.* 10 Va.-W. Va. Enc. Dig. 209; 14 Va.-W. Va. Enc. Dig. 753.]

2. Municipal Corporations (§ 733*)—Torts—Water Supply.—The adoption of a plan for supplying a part of a city with water involves the exercise of a delegated governmental power, so that the city is not liable in damages for an error of judgment as to the adequacy of the system as originally installed, though it may subsequently become liable after it is clearly demonstrated by experience that the system is inadequate or defective.

[Ed. Note.—For other cases, see *Municipal Corporations*, Cent. Dig. §§ 1547-1549, 1561; Dec. Dig. § 733.* 10 Va.-W. Va. Enc. Dig. 209; 14 Va.-W. Va. Enc. Dig. 753.]

3. Municipal Corporations (§ 745½*)—Torts—Liability.—A city is liable for the negligent acts and omissions of its officers with respect to the performance of ministerial corporate duties imposed upon it by law.

[Ed. Note.—For other cases, see *Municipal Corporations*, Cent. Dig. §§ 1568, 1569; Dec. Dig. § 745½.* 10 Va.-W. Va. Enc. Dig. 209; 14 Va.-W. Va. Enc. Dig. 753.]

4. Constitutional Law (§§ 232, 278*)—Due Process of Law—Equal Protection of Law.—Where water fixtures, installed by plaintiff in his house when the city water system was extended to his part of the city, have always been in his possession, and he had an adequate supply of water from the city waterworks when judgment was rendered in his action against the city for damages for inadequate supply, plaintiff cannot claim that he is deprived of his property without due process of law and denied the equal protection of the law by the judgment for the city; plaintiff not being entitled to maintain the action for damages.

[Ed. Note.—For other cases, see *Constitutional Law*, Cent. Dig. §§ 686, 763, 765, 767-770, 772-777, 779-806, 808-810, 816-824, 907-924, 942; Dec. Dig. §§ 232, 278.* 3 Va.-W. Va. Enc. Dig. 207.]

Error to Law and Equity Court of City of Richmond.

Action by S. S. Stansbury against the City of Richmond. Judgment for defendant, and plaintiff brings error. Affirmed.

C. W. Throckmorton and *S. A. Anderson* both of Richmond, for plaintiff in error.

H. R. Pollard, of Richmond, for defendant in error.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.